

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEVEN K. WELTMAN

Plaintiff,

v.

No.

R. M. PALMER COMPANY

JURY TRIAL DEMANDED

Defendant.

COMPLAINT

Plaintiff Steven K. Weltman files this Complaint against Defendant R. M. Palmer Company, and in support thereof avers as follows:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is based upon 28 U. S. C. §1331, in that this Court has original jurisdiction of this matter, which is based upon a law of the United States of America, the Age Discrimination in Employment Act, 29 U.S. C. §621 ("ADEA").

2. Plaintiff requests a trial by jury of the claims raised herein.

3. Venue is appropriate in this Court pursuant to 28 U.S. C. §1392(b) in that Defendant has ongoing business operations in this District, Plaintiff worked within this District, and a substantial part of the events giving rise to Plaintiff's claims occurred in this District.

4. The amount in controversy exceeds \$150,000.00, exclusive of interest and costs.

5. Plaintiff has complied with the applicable administrative remedies by first filing a Charge with the Equal Employment Opportunity Commission ("EEOC") on October 5, 2021, EEOC Charge no. 530-2022-00126, which has been dual-filed with the Pennsylvania Human Relations Commission ("PHRC") (Complaint no. unknown). On November 8, 2021, the EEOC issued a Notice of Right to Sue, permitting Plaintiff to file his cause of action under the ADEA.

6. Upon receipt of applicable authority from the PHRC, Plaintiff intends to amend this Complaint and assert a cause of action for age discrimination under the Pennsylvania Human Relations Act, 43 P. S. §955(a), et. seq. (“PHRA”).

PARTIES

7. Plaintiff Steven K. Weltman (“Weltman”) is an adult male, who resides at 5 Line Road, Malvern, PA 19355.

8. Defendant R. M. Palmer Company (“R. M. Palmer”) is a Pennsylvania corporation, that maintains a principal place of business in the Commonwealth of Pennsylvania at 77 South 2nd Avenue, West Reading, PA 19611.

9. At all times relevant hereto, Defendant was acting through its agents, servants, and employees, who were acting within the scope of their authority in the course of their employment and under the direct control of Defendant.

FACTUAL BACKGROUND

10. Weltman is a 64-year-old male.

11. On July 23, 2012, Weltman commenced employment with R. M. Palmer as Director of Human Resources.

12. Weltman was employed for nearly nine years until his employment was terminated on June 29, 2021.

13. Weltman’s annual financial compensation included a salary; an end-of-season bonus; an annual car allowance; and employment benefits, including medical, dental, and vision plans, life insurance, short term and long-term disability insurance, and enrollment in the company’s 401(k) plan, which included a company match.

14. R. M. Palmer operates a chocolate confectionary business that employs more than 850 regular and seasonal employees, who design, produce, package and ship more than 500 unique products, making it one of the largest and most innovative confectioners in the United States.

A. **R. M. Palmer's Workforce**

15. Members of the Human Resources team who reported to Weltman at the time of his termination included:

- A. Amy Sandoe, HR Manager (age 47);
- B. Leslie Hodges, HR Assistant (age 50);
- C. Colleen Livinghouse, HR Manager (age 51);
- D. Michelle Franek, Talent Acquisition Manager (age 47).

16. Mark Schlott ("Schlott") (age: 54), R. M. Palmer's Executive Vice President of Operations/COO, has expressed negative views on employees over the age of 60 at the workplace.

17. R. M. Palmer has a pattern and practice of replacing employees in their 60's with substantially younger workers.

18. Throughout Weltman's employment, Executive Vice President of Operations/COO Schlott, systematically worked to reduce the average age of the members of the Human Resources team.

19. In August 2019, former HR Manager Karen Barchie (age 67) was replaced by Amy Sandoe (age 46).

20. In March 2021, former HR Manager Michelle Kauffman (age 61), was replaced by Colleen Livinghouse (age 51).

21. After R. M. Palmer hired David Hikes as a Maintenance Manager in February 2020, Executive Vice President of Operations/COO Schlott, questioned Hikes' job performance and commented to Weltman, "that it may have made a mistake hiring someone that old"; Schlott then said to Weltman, "employees in their 60's are only looking for a paycheck until they can retire. They're not motivated to make changes and/or come up with solutions;" Hikes was later replaced by a substantially younger employee.

22. Recently R. M. Palmer replaced Chuck Shearer (age 65) as Controller / Treasurer with Bryan Faus (age 48).

B. R. M. Palmer's Progressive Disciplinary Process

23. R. M. Palmer has a progressive disciplinary process.

24. Throughout Weltman's employment, he was advised and reminded by his supervisor, Schlott, Executive Vice President of Operations/COO, "If you don't have it documented in writing, it never happened."

25. R. M. Palmer also has permitted employees to continue to be employed after receiving multiple Final Warnings regarding their job performance.

C. The Termination of Weltman's Employment

26. At no point in time during Weltman's employment was Weltman ever issued any written disciplinary warnings concerning poor work performance.

27. Weltman was also never issued a Performance Improvement Plan ("PIP"), or a Final Warning.

28. On June 29, 2021, Weltman was called to a meeting with Schlott, Executive Vice President of Operations/COO, and Tom Bell, Esq., R. M. Palmer's outside attorney from the

Stevens & Lee law firm, and advised that things were not going well and Weltman's employment was terminated, effective immediately.

29. Following the termination of Weltman's employment, Weltman's former subordinate, Amy Sandoe ("Sandoe"), a substantially younger female, who is 17 years younger than Weltman, was promoted to replace Weltman as Director of Human Resources.

30. Weltman is more qualified and more experienced than Sandoe to perform the duties of the Director of Human Resources at R. M. Palmer.

31. Any proffered reason for the termination of Weltman's employment is pretextual.

32. In terminating Weltman's employment, R. M. Palmer was motivated by a desire to discriminate against Weltman as an older employee and replace Weltman with a substantially younger employee.

33. R. M. Palmer's actions were willful and outrageous in that its motives and conduct as set forth above were malicious, wanton, reckless and oppressive.

34. Weltman has incurred substantial damages due to R. M. Palmer's termination of his employment, including lost wages and employment benefits and emotional distress.

COUNT I

VIOLATION OF AGE DISCRIMINATION IN EMPLOYMENT ACT

29 U. S. C. § 621 et. seq.

35. Paragraphs 1 to 34 are incorporated herein by reference, as if set forth in full.

36. Weltman was treated differently than a substantially younger, similarly situated employee.

37. In terminating Weltman's employment and employing a substantially younger individual to perform the same duties as Weltman, R. M. Palmer has discriminated against Weltman based upon his age.

38. R. M. Palmer's decision to terminate Weltman's employment was arbitrary and capricious, and based on a discriminatory animus towards older employees in the workplace.

39. R. M. Palmer's conduct is per se unlawful and constitutes unlawful age discrimination in violation of the ADEA.

WHEREFORE, Plaintiff Steven Weltman requests that this Court enter judgment in his favor and against Defendant R. M. Palmer Company, and that this Court enter a declaratory judgment that Defendant's actions complained of herein, violate and continue to violate the enactments of the federal legislature, award Plaintiff all appropriate equitable relief, award Plaintiff damages exceeding \$150,000.00, in the form of all compensation and monetary losses, which he has been denied, including back pay, front pay, pre-judgment interest, liquidated damages as defined by the Age Discrimination in Employment Act, reasonable attorneys' fees, expert witness fees, costs, and any other relief, which the court deems appropriate

/S/ Andrew S. Abramson, Esq.

Andrew S. Abramson, Esq.
Abramson Employment Law, LLC
790 Penllyn Blue Bell Pike
Suite 205
Blue Bell, PA 19422
telephone: 267-470-4742
email: asa@aemploylaw.com

attorney for Plaintiff Steven K. Weltman

Dated: November 15, 2021